

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK L. McCALL, JR.,

Petitioner,

Case No. 1:06-cv-757

v.

Honorable Richard Alan Enslen

TIM WILKINSON,

Respondent.

ORDER OF DISMISSAL

This is a habeas corpus proceeding brought by a Louisiana state prisoner pursuant to 28 U.S.C. § 2254. On August 22, 1989, Petitioner was convicted of simple robbery in Caddo Parish, LA. He subsequently was convicted of being a fourth felony offender and sentenced to imprisonment for twenty years. This is the second such petition filed by Mr. McCall in this Court. *See McCall v. Wilkinson*, No. 1:06-cv-575 (W.D. Mich.).¹ Petitioner's previous action was dismissed for lack of venue on September 8, 2006. Like his previous application for habeas corpus relief, Petitioner claims that he was denied the effective assistance of counsel in his criminal proceedings.

Venue in habeas corpus actions is governed by 28 U.S.C. § 2241. That statute allows a petition to be filed either in the district where Petitioner is in custody or in the district in which Petitioner was convicted. 28 U.S.C. § 2241(d). Petitioner presently is incarcerated in a state prison in Winnfield,

¹Mr. McCall and his wife also recently filed a civil rights action in this Court against the City of New Orleans and various public officials serving in Louisiana. *See McCall et al. v. City of New Orleans et al.*, 1:06-cv-503 (W.D. Mich.).

LA. As set forth above, Petitioner was convicted in Caddo Parish, LA. Venue, therefore, is improper in the Western District of Michigan. Accordingly,

IT IS HEREBY ORDERED that the Petition (Dkt. No. 1) is **DISMISSED** pursuant to 28 U.S.C. § 1406(a).

DATED in Kalamazoo, MI:
November 13, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE